



Select Committee to Protect Private Property Rights

**Monday March 6, 2006
2:45 p.m.—4:45 p.m.
Morris Hall**

SELECT COMMITTEE TO PROTECT PRIVATE PROPERTY RIGHTS
STAFF SUMMARY OF WORKING DRAFTS
March 6, 2006

HJR WORKING DRAFT B-1

Summary of HJR Working Draft B-1

Consistent with new section 73.03, F.S., created by General Bill Working Draft B-1, this joint resolution proposes an amendment to the Florida Constitution to limit the circumstances under which property taken by eminent domain may be transferred to a private party. If a petition of taking is filed on or after January 2, 2007, to initiate eminent domain proceedings regarding a parcel of real property in this state, ownership or control of property acquired pursuant to the petition may not be conveyed by the condemning authority or any other entity to a natural person or private entity, except that ownership or control of property acquired pursuant to the petition may be conveyed to:

- (c)(1) A natural person or private entity for use in providing common carrier services or systems;
- (2) A natural person or private entity for use as a road or other right-of-way or means open to the public for transportation, whether at no charge or by toll;
- (3) A natural person or private entity that is a public or private utility for use in providing electricity services or systems, natural or manufactured gas services or systems, water and wastewater services or systems, stormwater or runoff services or systems, sewer services or systems, pipeline facilities, telephone services or systems, or similar services or systems;
- (4) A natural person or private entity for use in providing public infrastructure;
- (5) A natural person or private entity that occupies, pursuant to a lease, an incidental part of a public property or a public facility for the purpose of providing goods or services to the public;
- (6) A natural person or private entity if the property was taken to eliminate an existing threat to public health or public safety that is likely to continue absent the exercise of eminent domain, as provided by general law;
- (7) A natural person or private entity if the property was owned and controlled by the condemning authority or a governmental entity for at least 5 years after the condemning authority acquired title to the property; or
- (8) A natural person or private entity in accordance with subsection (d).
- (d) If ownership of property is conveyed to a natural person or private entity pursuant to paragraphs (1), (2), (3), (4), (5), or (6) of subsection (c), and that natural person or private entity retains ownership and control of the property for at least 5 years after acquiring title, the property may subsequently be transferred to another natural person or private entity without restriction.

Summary of Differences Between HJR Working Draft B and HJR Working Draft B-1

The introductory language of the proposed amendment was modified as follows:

- The first draft may have allowed a condemning authority to take private property and transfer it to a governmental entity, which could then transfer the property to a private party for any use. The changes attempt to clarify that private property may not be transferred to a private party by the condemning authority or by any other entity except for the enumerated purposes.

- The prohibition against transfers to private entities in the first draft may have applied to all property taken by eminent domain for any purpose at any time in the past. The changes attempt to clarify that the prohibition of transfers to private parties applies only to takings that are initiated on or after January 2, 2007, the effective date of the amendment if approved by the voters.
- The first draft prohibited the transfer of taken property to any “person” under the assumption that “person” did not include governmental entities. However, according to current case law, the term “person” as defined in statute includes governmental entities. The changes attempt to clarify that property may not be transferred to private individuals or private entities, without prohibiting transfers to governmental entities.
- The first draft permitted the transfer of taken property to a private party if the owner of the taken property consented. The language regarding property owner consent is not included in Draft B-1.

Throughout new Draft B-1, the enumerated purposes for which private property may be transferred to private entities were modified to clarify that the prohibition of transfers applies to transfers of taken property to natural persons and private entities, not to governmental entities.

Paragraph (c)(5) initially allowed a transfer of taken property to a person that occupies, pursuant to a lease, an incidental part of public property or a public facility, such as a retail establishment on the ground floor of a public building. New Draft B-1 attempts to clarify the exception to allow transfers to a natural person or private entity that occupies, pursuant to a lease, an incidental part of public property or a public facility for the purpose of providing goods or services to the public.

Paragraph (c)(6) of new Draft B-1 is modified to reflect that, in order for property to be taken to eliminate an existing threat to public health or public safety, the threat must be likely to continue absent the exercise of eminent domain. This change is an attempt to incorporate the revision Representative Cannon suggested at the February 21, 2006 Select Committee meeting.

Paragraphs (c)(7), (c)(8), and (d) are added to new Draft B-1 in an attempt to address circumstances in which property taken for a legitimate public purpose is no longer necessary to accomplish the public purpose for which it was taken. For example, assume a city takes property by eminent domain for use as a wastewater treatment facility that includes several large sprayfields. After a number of years, the city determines that runoff from the sprayfields is contaminating a nearby spring and closes the facility. The property is located near a high tech research and development complex, and a private corporation wishes to purchase the property for development of a separate R&D facility. Under the first draft, the city may have been prohibited from selling the land to the private corporation even though the city took and used the land for a traditional public use and later closed the wastewater treatment facility due to unforeseen circumstances. The changes in new Draft B-1 allow a condemning authority to transfer property to a private entity if the property was owned and controlled by the condemning authority or a governmental entity for at least 5 years after the condemning authority acquired title to the property. The changes also provide that, if ownership of property is conveyed to a private party for one of the enumerated purposes, and that party retains ownership of the property for at least 5 years after acquiring title, the property may be subsequently transferred to another natural person or private entity without restriction. These changes may address the issue, but may be considered by some parties as creating a “loop hole”, as arbitrary, or too restrictive. The members may prefer to delete these new provisions altogether and replace with alternative language or increase the length of time that property must be retained, keeping in mind that the longer property must be retained, the greater the impact on governmental entities that legitimately exercise the power of eminent domain and, due to unforeseen circumstances, no longer require the property.

GENERAL BILL WORKING DRAFT B-1

Summary of General Bill Working Draft B-1

This draft eliminates authority to take property for purposes of eliminating slum or blight and to enhance the tax base in community redevelopment areas, but allows takings of a parcel of property in a community redevelopment area if taking the property is reasonably necessary to eliminate an existing threat to public health or public safety that is likely to continue absent the exercise of eminent domain. The draft requires local governments to exercise the power of eminent domain under the Community Redevelopment Act and prohibits delegation of that power to a community redevelopment agency. The draft requires enhanced property owner notice prior to consideration of any resolution finding slum or blight. Enhanced notice must also be provided 45 days prior to consideration of a county or city resolution to take a specific parcel of property, and the notice must indicate that the property will not be subject to taking if the conditions that pose a threat to public health or public safety are removed prior to the public hearing at which the resolution is considered.

If a property owner challenges an attempt to acquire his or her property by eminent domain under the Community Redevelopment Act, the condemning authority must demonstrate by clear and convincing evidence in an evidentiary hearing before the circuit court that the public purpose of the taking is to eliminate an existing threat to public health or public safety that is likely to continue absent the exercise of eminent domain, that the property is condemnation-eligible, and that taking the property is reasonably necessary in order to accomplish the public purpose. The circuit court must determine whether the public purpose of the taking is to eliminate an existing threat to public health or public safety that is likely to continue absent the exercise of eminent domain, whether the property is condemnation-eligible, and whether taking the property is reasonably necessary in order to accomplish the public purpose. The circuit court must make these determinations without attaching a presumption of correctness or extending judicial deference to any determinations or findings in the resolution of taking adopted by the condemning authority.

The draft prohibits transfers of taken property to another private entity with specified exceptions, which include transfers to common carriers, public utilities, private utilities, private entities that occupy an incidental part of a public facility for the purpose of providing goods or services to the public, and transfers of property taken under the Community Redevelopment Act to eliminate a threat to public health or public safety that is likely to continue absent the exercise of eminent domain. This list of exceptions may need to be clarified to limit application of the exceptions or expanded to include additional exceptions that the members consider acceptable.

This draft does not prohibit or limit the ability of local governments to take private property to abate a public nuisance inside or outside of a community redevelopment area. Therefore, cities and counties retain authority to take property to abate or eliminate any public nuisance if the taking is reasonably necessary. However, if property is taken to abate a nuisance on property that does not pose a threat to public health or public safety that is likely to continue absent the exercise of eminent domain, the property may not be transferred to a private entity unless the transfer qualifies as an exception to the prohibition against transfers of taken property to private entities.

New s. 73.013(1)(g), (1)(h) and (2), F.S., attempt to address the situation where property taken for a public purpose is no longer necessary to accomplish the public purpose for which it was taken. These provisions allow the transfer of taken property to a private entity for any use if the property is retained by the condemning authority, or a private party to whom property was transferred under one of the exceptions, for 5 years after acquiring title to the property.

City and county power to take property for a public purpose is otherwise unchanged; however, cities and counties are required to strictly comply with the prohibitions against transfers of taken property to private entities as provided in new s. 73.013, F.S.

Section-by-Section

Section 1, Line 30, Creating s. 73.013, F.S. Substantive revisions were made to this provision. [Located at line 449 of Draft B].

This section creates new s. 73.013, F.S., to limit transfers of private property taken by eminent domain to private parties. This new section is consistent with HJR Working Draft B-1 with the exception of the effective date. The effective date of this general bill is July 1, 2006, while the effective date of the amendment is January 2, 2007 if approved by the voters.

Under new s. 73.013, F.S., notwithstanding any other provision of law, including any charter provision, ordinance, statute, or special law, if the state, any political subdivision as defined in s. 1.01(8), or any other entity to which the power of eminent domain is delegated files a petition of taking on or after July 1, 2006, regarding a parcel of real property in this state, ownership or control of property acquired pursuant to the petition may not be conveyed by the condemning authority or any other entity to a natural person or private entity, except that ownership or control of property acquired pursuant to the petition may be conveyed to:

- (1)(a) A natural person or private entity for use in providing common carrier services or systems;
- (b) A natural person or private entity for use as a road or other right-of-way or means open to the public for transportation, whether at no charge or by toll;
- (c) A natural person or private entity that is a public or private utility for use in providing electricity services or systems, natural or manufactured gas services or systems, water and wastewater services or systems, stormwater or runoff services or systems, sewer services or systems, pipeline facilities, telephone services or systems, or similar services or systems;
- (d) A natural person or private entity for use in providing public infrastructure;
- (e) A natural person or private entity that occupies, pursuant to a lease, an incidental part of a public property or a public facility for the purpose of providing goods or services to the public;
- (f) A natural person or private entity if the property was taken pursuant to s. 163.375;
- (g) A natural person or private entity if the property was owned and controlled by the condemning authority or a governmental entity for at least 5 years after the condemning authority acquired title to the property; or
- (h) A natural person or private entity in accordance with subsection (2).
- (2) If ownership of property is conveyed to a natural person or private entity pursuant to paragraphs (1)(a), (b), (c), (d), (e), or (f), and that natural person or private entity retains ownership and control of the property for at least 5 years after acquiring title, the property may subsequently be transferred to another natural person or private entity without restriction.

Summary of Differences Between General Bill Draft B and General Bill Draft B-1

The introductory language of new s. 73.013, F.S., was modified as follows:

- The first draft may have allowed a condemning authority to take private property and transfer it to a governmental entity, which could then transfer the property to a private party

for any use. The changes attempt to clarify that private property may not be transferred to a private party by the condemning authority or by any other entity except for the enumerated purposes.

- The prohibition against transfers to private entities in the first draft may have applied to all property taken by eminent domain for any purpose at any time in the past. The changes attempt to clarify that the prohibition on transfers to private parties applies only to takings that are initiated on or after July 1, 2006, the effective date of the bill.
- The first draft prohibited the transfer of taken property to any "person" as defined in s. 1.01, F.S., under the assumption that "person" did not include governmental entities. However, under current case law, the term "person" as defined in statute includes governmental entities. The changes attempt to clarify that property may not be transferred to private individuals or private entities without prohibiting transfers to governmental entities.
- The first draft permitted the transfer of taken property to a private party if the owner of the taken property consented. The language regarding property owner consent is not included in Draft B-1.

(a)-(d) Changes clarify that property may be transferred to a "natural person" or "private entity" for one of the enumerated purposes without prohibiting transfers to governmental entities.

(e) The first draft allowed a transfer to a person that occupies, pursuant to a lease, an incidental part of public property or a public facility, such as a retail establishment on the ground floor of a public building. New Draft B-1 attempts to clarify the exception by changing the language to allow transfer to a natural person or private entity that occupies, pursuant to a lease, an incidental part of public property or a public facility for the purpose of providing goods or services to the public.

(f) Changes clarify that property may be transferred to a "natural person" or "private entity" for the enumerated purposes without prohibiting transfers to governmental entities.

(g) The first draft may have permanently prohibited the transfer of taken property to a private entity. This paragraph was added to new Draft B-1 in an attempt to address circumstances where property taken for a legitimate public purpose is no longer necessary to accomplish the public purpose for which it was taken. For example, assume a city takes property by eminent domain for use as a wastewater treatment facility that includes several large sprayfields. After a number of years, the city determines that runoff from the sprayfields is contaminating a nearby spring and closes the facility due to these unforeseen circumstances. The property is located near a high tech research and development complex, and a private corporation wishes to purchase the property for development of a separate R&D facility. Under the first draft, the city may have been prohibited from selling the land to the private corporation even though the city took and used the land for a traditional public use and later closed the wastewater treatment facility. The changes in new Draft B-1 allow a condemning authority to transfer property to a private entity if the property was owned and controlled by the condemning authority or a governmental entity for at least 5 years after the condemning authority acquired title to the property. This change may address the issue, but may be considered by some parties as creating a "loop hole", as arbitrary, or too restrictive. The members may prefer to delete this new provision altogether and replace with alternative language or increase the length of time that property must be retained, keeping in mind that the longer property must be retained, the greater the impact on governmental entities that legitimately exercise the power of eminent domain and, due to unforeseen circumstances, no longer require the property.

(h) See (2) below for explanation.

(2) Both Draft B and new Draft B-1 allow a condemning authority to transfer ownership of taken property to a private person or entity if the property will be used for one of the enumerated purposes. However, the first Draft B did not address the situation where ownership of property is transferred to a private party for a listed purpose but that private party no longer needs the property for the listed purpose. This subsection was added in an attempt to address this situation. The new subsection provides that, if ownership of property is conveyed to a private party and that party retains ownership of the property for at least 5 years after acquiring title, the property may be subsequently transferred to another natural person or private entity without restriction. This change may address the issue, but may be considered by some parties as creating a “loop hole”, as arbitrary, or too restrictive. The members may prefer to delete this new provision altogether and replace with alternative language or increase the length of time that property must be retained, keeping in mind that the longer property must be retained, the greater the impact on governmental entities that legitimately exercise the power of eminent domain and, due to unforeseen circumstances, no longer require the property.

Section 2, Line 76, Amending s. 163.335, F.S. This provision was not modified.

Declares that the power of eminent domain conferred by the Community Redevelopment Act may be exercised subject to the limitations provided in the bill. Provides a new legislative finding that the prevention or elimination of a “slum area” or “blighted area” as defined in the Act, and the preservation or enhancement of the tax base, are not public uses or purposes for which private property may be taken by eminent domain.

Section 3, Line 92, Amending s. 163.355, F.S. Conforming and clarifying revisions made.

Provides that resolution finding slum or blight adopted by the city or county must indicate whether property within the community redevelopment area will be subject to taking by eminent domain under the eminent domain authority provided by the Act. If a resolution of slum or blight conditions allows for the exercise of eminent domain, the section requires the local government to comply with new enhanced notice requirements prior to considering the resolution.

Summary of Differences Between General Bill Draft B and General Bill Draft B-1

Subsection (3) was modified to clarify that notice must be provided 30 days prior to the actual meeting, not 30 days prior to the date that was set for the meeting (which could change) and to remove language mistakenly inserted from another statute. Due to the deletion of the specific factors that evidence a threat to public health or public safety, the mailed notice required by (3)(c) must now indicate that property may be taken if the current condition poses an existing threat to public health or public safety that is likely to continue absent the exercise of eminent domain.

Subsection (4) was modified due to deletion of factors that evidence a threat to public health or public safety. The published notice must now indicate that property may be taken if the current condition poses an existing threat to public health or public safety that is likely to continue absent the exercise of eminent domain.

Section 4, Line 215, Amending s. 163.358, F.S. This provision was not modified.

Prohibits delegation of eminent domain power to a community redevelopment agency by a city or county.

Section 5, Line 225, Amending s. 163.360, F.S. A clarifying revision was made.

Requires a community redevelopment plan to indicate that property within the community redevelopment area may be subject to taking by eminent domain under the Act. If consistent with the resolution finding slum or blight conditions, the plan must indicate that the power of eminent

domain provided under the Act may not be exercised by the county or municipality within the community redevelopment area.

Summary of Differences Between General Bill Draft B and General Bill Draft B-1

The word “real” was added on line 227 to clarify that the community redevelopment plan must indicate that “real” property, not personal property, is subject to taking under the Community Redevelopment Act.

Section 6, Line 237, Amending s. 163.370, F.S. This provision was not modified. Prohibits delegation of the power of eminent domain to community redevelopment agencies by a city or county.

Section 7, Line 259, Amending s. 163.375, F.S. This provision was substantially modified. This section provides that, after the community redevelopment plan is adopted, a county or municipality may acquire by eminent domain any interest in a parcel of real property within a community redevelopment area, including a fee simple title, for the purpose of eliminating an existing threat to public health or public safety if the property is condemnation-eligible. A parcel of private property is condemnation-eligible if the current condition of the property poses an existing threat to public health or public safety and the threat to public health or safety is likely to continue absent the exercise of eminent domain.

The section further requires that within a community redevelopment area, a county or municipality must exercise the power of eminent domain in the manner provided in this section and in chapters 73 and 74, or pursuant to the power of eminent domain provided by any other statutory provision, as limited by new s. 73.013 (beginning on Line 30). However, no real property belonging to the United States, the state, or any political subdivision of the state may be acquired without its consent.

The section also provides that a county or municipality may not exercise the power of eminent domain conferred by this section unless the governing body first adopts a resolution of taking containing specific findings that (a) the public purpose of the taking is to eliminate an existing threat to public health or public safety that is likely to continue absent the exercise of eminent domain; (b) the parcel is condemnation-eligible as defined in the Act, including a specific reference to the conditions on the property that pose an existing threat to public health or public safety; and (c) taking the property is reasonably necessary in order to accomplish the public purpose. The city or county may not adopt a resolution of taking unless actual notice of the hearing at which the resolution is considered was provided at least 45 days prior to the hearing to the property owner and to any business owner, including a lessee, who operates a business located on the property. The section provides specific requirements for the enhanced notice, including requiring notice that the property will not be subject to eminent domain if the conditions that pose a threat are removed prior to the public hearing.

If a property owner challenges an attempt to acquire his or her property by eminent domain under this section, the condemning authority must demonstrate by clear and convincing evidence in an evidentiary hearing before the circuit court that the public purpose of the taking is to eliminate an existing threat to public health or public safety that is likely to continue absent the exercise of eminent domain, that the property is condemnation-eligible, and that taking the property is reasonably necessary in order to accomplish the public purpose. The circuit court must determine whether the public purpose of the taking is to eliminate an existing threat to public health or public safety that is likely to continue absent the exercise of eminent domain, whether the property is condemnation-eligible, and whether taking the property is reasonably necessary in order to

accomplish the public purpose. The circuit court must make these determinations without attaching a presumption of correctness or extending judicial deference to any determinations or findings in the resolution of taking adopted by the condemning authority.

Summary of Differences Between Draft B and Draft B-1

This section was substantially modified to incorporate the Committee's decision to delete the factors that evidence a threat, to incorporate Representative Cannon's suggested revision, and to clarify terms.

(1) This subsection is significantly modified to clarify that the new takings requirements under the Community Redevelopment Act apply to each parcel of real property rather than to the entire redevelopment area, to delete specific factors that evidence a threat to public health or public safety, and to insert the revision suggested by Representative Cannon during the last Select Committee meeting. In addition, throughout the original draft, there were references to "public health OR safety" as well as references to "public health AND safety". Each reference in this draft was modified to "public health or public safety" for purposes of clarity and consistency. If members wish to do so, they may further modify the language to "public health AND public safety", requiring the threat to be BOTH a threat to public health and public safety. Under the new Draft B-1, a parcel is eligible for taking if "the current condition of the property poses an existing threat to public health or public safety and the existing threat to public health or public safety is likely to continue absent the exercise of eminent domain." Representative Cannon's suggestion is incorporated with the language reading: "and the existing threat to public health or public safety is likely to continue absent the exercise of eminent domain".

(2) The factors that evidence a threat are stricken as directed by the Committee.

(3) Renumbered as (2). This provision is modified to clarify that a city or county must adopt the resolution of taking before initiating a taking, not at some unspecified point prior to exercising the power of eminent domain.

(a) Conforming change to require the resolution of taking to include a finding that the public purpose for the taking is to eliminate an existing threat to public health or public safety that is likely to continue absent the exercise of eminent domain.

(b) Conforming change to clarify that the specific parcel must pose a threat to public health or public safety that is likely to continue absent the exercise of eminent domain and that the resolution of taking must specify the conditions on the property that pose an existing threat to public health or public safety that is likely to continue absent the exercise of eminent domain.

(c) Conforming change to provide that taking the property must be reasonably necessary in order to eliminate an existing threat to public health or public safety that is likely to continue absent the exercise of eminent domain.

(4) Renumbered as (3). Technical changes only.

(a) No changes.

(b) No changes.

(c) 1. Technical changes.

2. Conforming change that requires notice to the property owner to indicate that the owner's property is subject to taking because current conditions on the property pose an existing threat to public health or public safety that is likely to continue absent an exercise of eminent domain.

3 & 4. Conforming change.

5-7 No changes.

(5) Renumbered as (4). All changes are intended to reflect that, in order for a parcel of real property to be subject to taking, current conditions on the parcel must pose an existing threat to public health or public safety that is likely to continue absent the exercise of eminent domain.

(6) Renumbered as (5), no changes otherwise.

(7) Renumbered as (6), no changes otherwise.

Section 8, Line 431, Amending s. 127.01, F.S. This provision was not modified. Requires that counties strictly comply with new limitations on the transfer of property taken by eminent domain found in new s. 73.013, which begins on Line 449 of the draft.

Section 9, Line 437, Amending s. 127.02, F.S. This provision was not modified. Subjects all takings by counties to the limitations on transferring taken property to private parties found in new s. 73.013, which begins on Line 449 of the draft.

Section 10, Line 445, Amending s. 166.401, F.S. This provision was not modified. Requires municipalities to strictly comply with new limitations on the exercise of eminent domain found in new s. 73.013, which begins on Line 449 of the draft.

Section 11, Line 450, Amending s. 166.411, F.S. This provision was not modified. Subjects all takings by cities to the limitations on transferring taken property to private parties found in new s. 73.013, which begins on Line 449 of the draft.

Section 12, Line 465, Providing an effective date. This provision was not modified. The bill will take effect July 1, 2006 and apply to all condemnation proceedings in which a petition of taking is filed pursuant to chapter 73 on or after that date.

HJR WORKING DRAFT C This draft was not modified.
(Portability)

This joint resolution proposes an amendment to Article VII, Section 4 of the State Constitution to provide for assessing at less than just value property purchased within two years after a homestead is taken by eminent domain if the new property is established as homestead, to provide that the difference between the new property's just value and its assessed value in the first year may not exceed the difference between the previous homestead's just value and its assessed value in the year the homestead property is taken by eminent domain, and to provide that the assessed value of the new homestead must equal or exceed the assessed value of the previous homestead.

GENERAL BILL WORKING DRAFT B-1

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1 A bill to be entitled
2 An act relating to eminent domain; creating s. 73.013,
3 F.S.; restricting certain transfers of property taken by
4 eminent domain to natural persons; amending s. 163.335,
5 F.S.; providing legislative intent; amending s. 163.355,
6 F.S.; requiring disclosure of eminent domain authority in
7 resolutions finding slum or blight conditions; providing
8 for notice to property owners; providing notice
9 requirements; amending s. 163.358, F.S.; providing that
10 the power of eminent domain does not vest in community
11 redevelopment agencies but rather with the governing body
12 of counties and municipalities; amending s. 163.360, F.S.;
13 requiring disclosure of eminent domain authority in
14 community redevelopment plans; amending s. 163.370, F.S.;
15 revising powers of community redevelopment agencies;
16 amending s. 163.375, F.S.; revising eminent domain
17 authority and procedures; amending s. 127.01, F.S.;
18 requiring county compliance with eminent domain
19 limitations; amending s. 127.02, F.S.; requiring county
20 compliance with eminent domain limitations; amending s.
21 166.401, F.S.; requiring municipal compliance with eminent
22 domain limitations; amending s. 166.411, F.S.; requiring
23 municipal compliance with eminent domain limitations;
24 providing application; providing an effective date.

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26 Be It Enacted by the Legislature of the State of Florida:

27
28 Section 1. Section 73.013, Florida Statutes, is created to
29 read:

GENERAL BILL WORKING DRAFT B-1

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30 73.013 Conveyance of property taken by eminent domain.--

31 (1) Notwithstanding any other provision of law, including
32 any charter provision, ordinance, statute, or special law, if the
33 state, any political subdivision as defined in s. 1.01(8), or any
34 other entity to which the power of eminent domain is delegated
35 files a petition of taking on or after July 1, 2006, regarding a
36 parcel of real property in this state, ownership or control of
37 property acquired pursuant to such petition may not be conveyed
38 by the condemning authority or any other entity to a natural
39 person or private entity, except that ownership or control of
40 property acquired pursuant to such petition may be conveyed to:

41 (a) A natural person or private entity for use in providing
42 common carrier services or systems;

43 (b) A natural person or private entity for use as a road or
44 other right-of-way or means open to the public for
45 transportation, whether at no charge or by toll;

46 (c) A natural person or private entity that is a public or
47 private utility for use in providing electricity services or
48 systems, natural or manufactured gas services or systems, water
49 and wastewater services or systems, stormwater or runoff services
50 or systems, sewer services or systems, pipeline facilities,
51 telephone services or systems, or similar services or systems;

52 (d) A natural person or private entity for use in providing
53 public infrastructure;

54 (e) A natural person or private entity that occupies,
55 pursuant to a lease, an incidental part of a public property or a
56 public facility for the purpose of providing goods or services to
57 the public;

GENERAL BILL WORKING DRAFT B-1

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(f) A natural person or private entity if the property was taken pursuant to s. 163.375;

(g) A natural person or private entity if the property was owned and controlled by the condemning authority or a governmental entity for at least 5 years after the condemning authority acquired title to the property; or

(h) A natural person or private entity in accordance with subsection (2).

(2) If ownership of property is conveyed to a natural person or private entity pursuant to paragraphs (1)(a), (b), (c), (d), (e), or (f), and that natural person or private entity retains ownership and control of the property for at least 5 years after acquiring title, the property may subsequently be transferred to another natural person or private entity without restriction.

Section 2. Subsection (3) of section 163.335, Florida Statutes, is amended, and subsection (7) is added to that section, to read:

163.335 Findings and declarations of necessity.--

(3) It is further found and declared that the powers conferred by this part are for public uses and purposes for which public money may be expended, the police power exercised, and the power of eminent domain exercised subject to the limitations in s. 163.375 ~~and the power of eminent domain and police power exercised,~~ and the necessity in the public interest for the provisions herein enacted is hereby declared as a matter of legislative determination.

(7) It is further found that the prevention or elimination of a "slum area" or "blighted area" as defined in this part and

GENERAL BILL WORKING DRAFT B-1

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the preservation or enhancement of the tax base are not public uses or purposes for which private property may be taken by eminent domain.

Section 3. Section 163.355, Florida Statutes, is amended to read:

163.355 Finding of necessity by county or municipality.--

(1) No county or municipality shall exercise the community redevelopment authority conferred by this part until after the governing body has adopted a resolution, supported by data and analysis, which makes a legislative finding that the conditions in the area meet the criteria described in s. 163.340(7) or (8). The resolution must state that:

(a)~~(1)~~ One or more slum or blighted areas, or one or more areas in which there is a shortage of housing affordable to residents of low or moderate income, including the elderly, exist in such county or municipality; and

(b)~~(2)~~ The rehabilitation, conservation, or redevelopment, or a combination thereof, of such area or areas, including, if appropriate, the development of housing which residents of low or moderate income, including the elderly, can afford, is necessary in the interest of the public health, safety, morals, or welfare of the residents of such county or municipality.

(2) A resolution finding slum or blight conditions must indicate that property within the community redevelopment area may be subject to taking by eminent domain pursuant to s. 163.375. In the alternative, the county or municipality may explicitly state in the resolution that the power of eminent domain provided under s. 163.375 will not be exercised by the county or municipality within the community redevelopment area. A

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county or municipality is not required to provide notice in accordance with subsections (3) and (4) if the resolution finding slum or blight conditions, as proposed and adopted by the county or municipality, expressly declares that the power of eminent domain provided under s. 163.375 will not be exercised by the county or municipality within the community redevelopment area.

(3) At least 30 days prior to the first public hearing at which a proposed resolution finding slum or blight conditions will be considered by a county or municipality, actual notice of the public hearing must be mailed via first class mail to each real property owner whose property may be included within the community redevelopment area and to each business owner, including lessees, who operate a business located on property that may be included within the community redevelopment area.

(a) Notice must be sent to each owner of real property that may be included within the community redevelopment area at the owner's last known address as listed on the county ad valorem tax roll. Alternatively, the notice may be personally delivered to a property owner. If there is more than one owner of a property, notice to one owner constitutes notice to all owners of the property. The return of the notice as undeliverable by the postal authorities constitutes compliance with this subsection. The condemning authority is not required to give notice to a person who acquires title to property after the notice required by this subsection has been given.

(b) Notice must be sent to the address of the registered agent for the business located on the property, or if no agent is registered, by certified mail or personal delivery to the address of the business located on the property. Notice to one owner of a

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multiple ownership business constitutes notice to all owners of that business. The return of the notice as undeliverable by the postal authorities constitutes compliance with this subsection. The condemning authority is not required to give notice to a person who acquires an interest in a business after the notice required by this subsection has been given.

(c) At a minimum, the mailed notice required by paragraphs (a) and (b) must:

1. Generally explain the purpose, effect, and substance of the proposed resolution;

2. Indicate that private property within the proposed redevelopment area may be subject to taking by eminent domain if the current condition of the property poses an existing threat to the public health or public safety that is likely to continue absent the exercise of eminent domain;

3. Indicate that private-to-private transfers of property may occur;

4. Contain a geographic location map that clearly indicates the area covered by the resolution, including major street names as a means of identification of the general area;

5. Provide the dates, times, and locations of future public hearings during which the resolution may be considered;

6. Identify the place or places within the county or city at which the resolution may be inspected by the public;

7. Indicate that the property owner may file written objections with the local governing board prior to any public hearing on the resolution; and

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172 8. Indicate that interested parties may appear and be heard
173 at all public hearings at which the resolution will be
174 considered.

175 (4) In addition to mailing notice to property owners, the
176 city or county must conduct at least two advertised public
177 hearings prior to adoption of the proposed resolution. At least
178 one hearing must be held after 5 p.m. on a weekday, unless the
179 governing body, by a majority plus one vote, elects to conduct
180 the hearing at another time of day. The first public hearing must
181 be held at least 7 days after the day the first advertisement is
182 published. The second hearing must be held at least 10 days after
183 the first hearing and must be advertised at least 5 days prior to
184 the public hearing. The required advertisements must be no less
185 than 2 columns wide by 10 inches long in a standard size or a
186 tabloid size newspaper, and the headline in the advertisement
187 must be in a type no smaller than 18 point. The advertisement
188 must not be placed in that portion of the newspaper where legal
189 notices and classified advertisements appear and must be placed
190 in a newspaper of general paid circulation rather than one of
191 limited subject matter. Whenever possible, the advertisement must
192 appear in a newspaper that is published at least 5 days a week
193 unless the only newspaper in the community is published fewer
194 than 5 days a week. At a minimum, the advertisement must:

195 (a) Generally explain the substance and effect of the
196 resolution;

197 (b) Include a statement indicating that private property
198 within the proposed redevelopment area may be subject to taking
199 by eminent domain if the current condition of the property poses

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an existing threat to the public health or public safety that is likely to continue absent the exercise of eminent domain;

(c) Provide the date, time, and location of the meeting;

(d) Identify the place or places within the county or city at which the resolution may be inspected by the public;

(e) Contain a geographic location map that clearly indicates the area covered by the resolution, including major street names as a means of identification of the general area;

(f) Indicate that any interested party may file written objections with the local governing board prior to the public hearing; and

(g) Indicate that any interested party may appear and be heard at the public hearing.

Section 4. Subsection (6) is added to section 163.358, Florida Statutes, to read:

163.358 Exercise of powers in carrying out community redevelopment and related activities.--The community redevelopment powers assigned to a community redevelopment agency created under s. 163.356 include all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this part, except the following, which continue to vest in the governing body of the county or municipality:

(6) The power of eminent domain.

Section 5. Paragraph (d) is added to subsection (2) of section 163.360, Florida Statutes, to read:

163.360 Community redevelopment plans.--

(2) The community redevelopment plan shall:

(d) Indicate that real property within the community redevelopment area may be subject to taking by eminent domain

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229 pursuant to s. 163.375. If consistent with the resolution finding
230 slum or blight conditions, the plan must indicate that the power
231 of eminent domain provided under s. 163.375 will not be exercised
232 by the county or municipality within the community redevelopment
233 area.

234 Section 6. Paragraph (o) of subsection (1) and paragraph
235 (a) of subsection (3) and of section 163.370, Florida Statutes,
236 are amended to read:

237 163.370 Powers; counties and municipalities; community
238 redevelopment agencies.--

239 (1) Every county and municipality shall have all the powers
240 necessary or convenient to carry out and effectuate the purposes
241 and provisions of this part, including the following powers in
242 addition to others herein granted:

243 (o) To exercise all or any part or combination of powers
244 herein granted or to elect to have such powers exercised by a
245 community redevelopment agency; however, the power of eminent
246 domain shall not be exercised by a community redevelopment
247 agency.

248 (3) With the approval of the governing body, a community
249 redevelopment agency may:

250 (a) Prior to approval of a community redevelopment plan or
251 approval of any modifications of the plan, acquire real property
252 in a community redevelopment area by purchase, lease, option,
253 gift, grant, bequest, devise, or other voluntary method of
254 acquisition, demolish and remove any structures on the property,
255 and pay all costs related to the acquisition, demolition, or
256 removal, including any administrative or relocation expenses.

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257 Section 7. Section 163.375, Florida Statutes, is amended to
258 read:

259 163.375 Eminent domain.--

260 (1) After the community redevelopment plan is adopted, a
261 county or municipality may acquire by eminent domain any interest
262 in a parcel of real property within a community redevelopment
263 area, including a fee simple title thereto, for the purpose of
264 eliminating an existing threat to public health or public safety
265 if the parcel of real property is condemnation-eligible. A parcel
266 of real property is condemnation-eligible only if the current
267 condition of the property poses an existing threat to public
268 health or public safety and the existing threat to public health
269 or public safety is likely to continue absent the exercise of
270 eminent domain. A county or municipality shall exercise the power
271 of eminent domain in the manner provided in this section and in
272 chapters 73 and 74, or pursuant to the power of eminent domain
273 provided by any other statutory provision, as limited by s.
274 73.013. Real property belonging to the United States, the state,
275 or any political subdivision of the state may not be acquired
276 without the consent of the respective entity. Any county or
277 municipality, or any community redevelopment agency pursuant to
278 specific approval of the governing body of the county or
279 municipality which established the agency, as provided by any
280 county or municipal ordinance has the right to acquire by
281 condemnation any interest in real property, including a fee
282 simple title thereto, which it deems necessary for, or in
283 connection with, community redevelopment and related activities
284 under this part. Any county or municipality, or any community
285 redevelopment agency pursuant to specific approval by the

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~~governing body of the county or municipality which established the agency, as provided by any county or municipal ordinance may exercise the power of eminent domain in the manner provided in chapters 73 and 74 and acts amendatory thereof or supplementary thereto, or it may exercise the power of eminent domain in the manner now or which may be hereafter provided by any other statutory provision for the exercise of the power of eminent domain. Property in unincorporated enclaves surrounded by the boundaries of a community redevelopment area may be acquired when it is determined necessary by the agency to accomplish the community redevelopment plan. Property already devoted to a public use may be acquired in like manner. However, no real property belonging to the United States, the state, or any political subdivision of the state may be acquired without its consent.~~

(2) A county or municipality shall not initiate an eminent domain proceeding pursuant to authority conferred by this section unless the governing body first adopts a resolution of taking containing specific determinations or findings that:

(a) The public purpose of the taking is to eliminate an existing threat to public health or public safety that is likely to continue absent the exercise of eminent domain;

(b) The parcel of real property is condemnation eligible as defined in subsection (1), including a specific description of the current conditions on the property that pose an existing threat to public health or public safety that is likely to continue absent the exercise of eminent domain; and

(c) Taking the property by eminent domain is reasonably necessary in order to accomplish the public purpose of

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eliminating an existing threat to public health or public safety
that is likely to continue absent the exercise of eminent domain.

(3) The city or county shall not adopt a resolution of
taking under this section unless actual notice of the public
hearing at which the resolution is considered was provided to the
property owner and to any business owner, including a lessee, who
operates a business located on the property at least 45 days
prior to the hearing.

(a) Notice must be sent by certified mail, return receipt
requested, to the last known address listed on the county ad
valorem tax roll of each owner of the property. Alternatively,
the notice may be personally delivered to each property owner.
The return of the notice as undeliverable by the postal
authorities constitutes compliance with this subsection. The
condemning authority is not required to give notice to a person
who acquires title to the property after the notice required by
this subsection has been given.

(b) Notice must be sent by certified mail, return receipt
requested, to the address of the registered agent for the
business located on the property to be acquired or, if no agent
is registered, by certified mail or personal delivery to the
address of the business located on the property to be acquired.
Notice to one owner of a multiple ownership business constitutes
notice to all business owners of that business. The return of the
notice as undeliverable by the postal authorities constitutes
compliance with this subsection. The condemning authority is not
required to give notice to a person who acquires an interest in
the business after the notice required by this subsection has
been given.

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344 (c) At a minimum, the notices required by paragraphs (a)
345 and (b) shall indicate:

346 1. That the city or county governing body will determine
347 whether to take the parcel of real property pursuant to authority
348 granted by the Community Redevelopment Act and will formally
349 consider a resolution of taking at a public hearing;

350 2. That the property is subject to taking by eminent domain
351 under the Community Redevelopment Act because current conditions
352 on the property pose an existing threat to public health or
353 public safety that is likely to continue absent the exercise of
354 eminent domain;

355 3. The specific conditions on the property pose an existing
356 threat to public health or public safety and form the basis for
357 taking the property;

358 4. That the property will not be subject to taking if the
359 specific conditions that pose an existing threat to public health
360 or public safety and form the basis for the taking are removed
361 prior to the public hearing at which the resolution will be
362 considered by the governing body;

363 5. The date, time, and location of the public hearing at
364 which the resolution of taking will be considered;

365 6. That the property owner or business owner may file
366 written objections with the governing board prior to the public
367 hearing at which the resolution of taking is considered; and

368 7. That any interested party may appear and be heard at the
369 public hearing at which the resolution of taking is considered.

370 (4)(a) In accordance with chapters 73 and 74, if a property
371 owner challenges an attempt to acquire his or her property by
372 eminent domain under this section, the condemning authority must

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prove by clear and convincing evidence in an evidentiary hearing
before the circuit court that:

1. The public purpose of the taking is to eliminate an
existing threat to public health or public safety that is likely
to continue absent the exercise of eminent domain;

2. The property is condemnation eligible as defined in
subsection (1); and

3. Taking the property by eminent domain is reasonably
necessary in order to accomplish the public purpose of
eliminating an existing threat to public health or public safety
that is likely to continue absent the exercise of eminent domain.

(b) The circuit court shall determine whether the public
purpose of the taking is to eliminate an existing threat to
public health or public safety that is likely to continue absent
the exercise of eminent domain, whether the property is
condemnation-eligible as defined in subsection (1), and whether
taking the property is reasonably necessary in order to
accomplish the public purpose of eliminating an existing threat
to public health or public safety that is likely to continue
absent the exercise of eminent domain. The circuit court shall
make these determinations without attaching a presumption of
correctness or extending judicial deference to any determinations
or findings in the resolution of taking adopted by the condemning
authority.

(5)(2) In any proceeding to fix or assess compensation for
damages for the taking of property, or any interest therein,
through the exercise of the power of eminent domain or
condemnation, evidence or testimony bearing upon the following
matters shall be admissible and shall be considered in fixing

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such compensation or damages in addition to evidence or testimony otherwise admissible:

(a) Any use, condition, occupancy, or operation of such property, which is unlawful or violative of, or subject to elimination, abatement, prohibition, or correction under, any law, ordinance, or regulatory measure of the state, county, municipality, or other political subdivision, or any agency thereof, in which such property is located, as being unsafe, substandard, unsanitary, or otherwise contrary to the public health, safety, morals, or welfare.

(b) The effect on the value of such property of any such use, condition, occupancy, or operation or of the elimination, abatement, prohibition, or correction of any such use, condition, occupancy, or operation.

(6)(3) In any proceeding to fix or assess compensation for damages for the taking of property, or any interest therein, the foregoing testimony and evidence shall be admissible notwithstanding that no action has been taken by any public body or public officer toward the abatement, prohibition, elimination, or correction of any such use, condition, occupancy, or operation. Testimony or evidence that any public body or public officer charged with the duty or authority so to do has rendered, made, or issued any judgment, decree, determination, or order for the abatement, prohibition, elimination, or correction of any such use, condition, occupancy, or operation shall be admissible and shall be prima facie evidence of the existence and character of such use, condition, or operation.

Section 8. Subsection (3) is added to section 127.01, Florida Statutes, to read:

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127.01 Counties delegated power of eminent domain;
recreational purposes, issue of necessity of taking.--

(3) Each county shall strictly comply with the limitations
set forth in s. 73.013.

Section 9. Section 127.02, Florida Statutes, is amended to
read:

127.02 County commissioners may authorize acquirement of
property by eminent domain.--The board of county commissioners
may, by resolution, authorize the acquirement by eminent domain
of property, real or personal, for any county use or purpose
designated in such resolution, subject to the limitations set
forth in s. 73.013.

Section 10. Subsection (3) is added to section 166.401,
Florida Statutes, to read:

166.401 Right of eminent domain.--

(3) Each municipality shall strictly comply with the
limitations set forth in s. 73.013.

Section 11. Subsections (1), (9), and (10) of section
166.411, Florida Statutes, are amended to read:

166.411 Eminent domain; uses or purposes.--Municipalities
are authorized to exercise the power of eminent domain for the
following uses or purposes:

(1) For the proper and efficient carrying into effect of
any proposed scheme or plan of drainage, ditching, grading,
filling, or other public improvement deemed necessary or
expedient for the preservation of the public health, or for other
good reason connected in anywise with the public welfare or the
interests of the municipality and the people thereof, subject to
the limitations set forth in s. 73.013;

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460 (9) For laying wires and conduits underground; and
 461 (10) For city buildings, waterworks, ponds, and other
 462 municipal purposes which shall be coextensive with the powers of
 463 the municipality exercising the right of eminent domain subject
 464 to the limitations set forth in s. 73.013.~~and~~
 465 Section 12. This act shall take effect July 1, 2006, and
 466 shall apply to all condemnation proceedings in which a petition
 467 of taking is filed pursuant to chapter 73 on or after that date.

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House Joint Resolution

A joint resolution proposing an amendment to Section 6 of Article X of the State Constitution relating to eminent domain.

Be It Resolved by the Legislature of the State of Florida:

That the following amendment to Section 6 of Article X of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE X

Miscellaneous

SECTION 6. Eminent domain.--

(a) No private property shall be taken except for a public purpose and with full compensation therefor paid to each owner or secured by deposit in the registry of the court and available to the owner.

(b) Provision may be made by law for the taking of easements, by like proceedings, for the drainage of the land of one person over or through the land of another.

(c) If a petition is filed on or after January 2, 2007, to initiate eminent domain proceedings regarding a parcel of real property in this state, ownership or control of property acquired pursuant to such petition shall not be conveyed by the condemning authority or any other entity to a natural person or private entity, except that ownership or control of property acquired pursuant to such petition may be conveyed to:

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30 (1) A natural person or private entity for use in providing
31 common carrier services or systems;

32 (2) A natural person or private entity for use as a road or
33 other right-of-way or means open to the public for
34 transportation, whether at no charge or by toll;

35 (3) A natural person or private entity that is a public or
36 private utility for use in providing electricity services or
37 systems, natural or manufactured gas services or systems, water
38 and wastewater services or systems, stormwater or runoff services
39 or systems, sewer services or systems, pipeline facilities,
40 telephone services or systems, or similar services or systems;

41 (4) A natural person or private entity for use in providing
42 public infrastructure;

43 (5) A natural person or private entity that occupies,
44 pursuant to a lease, an incidental part of a public property or a
45 public facility for the purpose of providing goods or services to
46 the public;

47 (6) A natural person or private entity if the property was
48 taken to eliminate an existing threat to public health or public
49 safety that is likely to continue absent the exercise of eminent
50 domain, as provided by general law;

51 (7) A natural person or private entity if the property was
52 owned and controlled by the condemning authority or a
53 governmental entity for at least 5 years after the condemning
54 authority acquired title to the property; or

55 (8) A natural person or private entity in accordance with
56 subsection (d).

57 (d) If ownership of property is conveyed to a natural
58 person or private entity pursuant to paragraphs (1), (2), (3),

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(4), (5), or (6) of subsection (c), and that natural person or private entity retains ownership and control of the property for at least 5 years after acquiring title, the property may subsequently be transferred to another natural person or private entity without restriction.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

CONSTITUTIONAL AMENDMENT

ARTICLE X, SECTION 6

EMINENT DOMAIN.-- Proposing an amendment to the State Constitution to prohibit the transfer of ownership or control of private real property taken by eminent domain pursuant to a petition filed after January 2, 2007, to any natural person or private entity, except that ownership or control of such property may be conveyed to:

(1) A natural person or private entity for use in providing common carrier services or systems;

(2) A natural person or private entity for use as a road or other right-of-way or means open to the public for transportation, whether at no charge or by toll;

(3) A natural person or private entity that is a public or private utility for use in providing electricity services or systems, natural or manufactured gas services or systems, water and wastewater services or systems, stormwater or runoff services or systems, sewer services or systems, pipeline facilities, telephone services or systems, or similar services or systems;

(4) A natural person or private entity for use in providing public infrastructure;

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88 (5) A natural person or private entity that occupies,
89 pursuant to a lease, an incidental part of a public property or a
90 public facility for the purpose of providing goods or services to
91 the public;

92 (6) A natural person or private entity if the property was
93 taken to eliminate an existing threat to public health or public
94 safety as provided by general law;

95 (7) A natural person or private entity if the property was
96 owned and controlled by the condemning authority or a
97 governmental entity for at least 5 years after the condemning
98 authority acquired title to the property; or

99 (8) A natural person or private entity in accordance with
100 subsection (d).

101 (d) If ownership of property is conveyed to a natural
102 person or private entity pursuant to paragraphs (1), (2), (3),
103 (4), (5), or (6) of subsection (c), and that natural person or
104 private entity retains ownership and control of the property for
105 at least 5 years after acquiring title, the property may
106 subsequently be transferred to another natural person or private
107 entity without restriction.

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House Joint Resolution

A joint resolution proposing an amendment to Section 4 of Article VII of the State Constitution to provide an additional circumstance for assessing homestead property at less than just value.

Be It Resolved by the Legislature of the State of Florida:

That the following amendment to Section 4 of Article VII of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE VII

FINANCE AND TAXATION

SECTION 4. Taxation; assessments.--By general law regulations shall be prescribed which shall secure a just valuation of all property for ad valorem taxation, provided:

(a) Agricultural land, land producing high water recharge to Florida's aquifers, or land used exclusively for noncommercial recreational purposes may be classified by general law and assessed solely on the basis of character or use.

(b) Pursuant to general law tangible personal property held for sale as stock in trade and livestock may be valued for taxation at a specified percentage of its value, may be classified for tax purposes, or may be exempted from taxation.

(c) All persons entitled to a homestead exemption under Section 6 of this Article shall have their homestead assessed at just value as of January 1 of the year following the effective

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30 | date of this amendment. This assessment shall change only as
31 | provided herein.

32 | (1) Assessments subject to this provision shall be changed
33 | annually on January 1st of each year; but those changes in
34 | assessments shall not exceed the lower of the following:

35 | a. Three percent (3%) of the assessment for the prior year.

36 | b. The percent change in the Consumer Price Index for all
37 | urban consumers, U.S. City Average, all items 1967=100, or
38 | successor reports for the preceding calendar year as initially
39 | reported by the United States Department of Labor, Bureau of
40 | Labor Statistics.

41 | (2) No assessment shall exceed just value.

42 | (3) After any change of ownership, as provided by general
43 | law, homestead property shall be assessed at just value as of
44 | January 1 of the following year, unless the provisions of
45 | subsection (8) apply. Thereafter, the homestead shall be assessed
46 | as provided herein.

47 | (4) New homestead property shall be assessed at just value
48 | as of January 1st of the year following the establishment of the
49 | homestead, unless the provisions of subsection (8) apply. That
50 | assessment shall only change as provided herein.

51 | (5) Changes, additions, reductions, or improvements to
52 | homestead property shall be assessed as provided for by general
53 | law; provided, however, after the adjustment for any change,
54 | addition, reduction, or improvement, the property shall be
55 | assessed as provided herein.

56 | (6) In the event of a termination of homestead status, the
57 | property shall be assessed as provided by general law.

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58 (7) The provisions of this amendment are severable. If any
59 of the provisions of this amendment shall be held
60 unconstitutional by any court of competent jurisdiction, the
61 decision of such court shall not affect or impair any remaining
62 provisions of this amendment.

63 (8) When a person's homestead property in this state is
64 taken by power of eminent domain and within two years the person
65 purchases another property and establishes such property as
66 homestead property, the newly established homestead property
67 shall be initially assessed at less than just value, as provided
68 by general law. The difference between the new homestead
69 property's just value and its assessed value in the first year
70 the homestead is established may not exceed the difference
71 between the previous homestead property's just value and its
72 assessed value in the year the homestead property was taken by
73 eminent domain. In addition, the assessed value of the new
74 homestead property must equal or exceed the assessed value of the
75 previous homestead property. Thereafter, the homestead property
76 shall be assessed as provided herein.

77 (d) The legislature may, by general law, for assessment
78 purposes and subject to the provisions of this subsection, allow
79 counties and municipalities to authorize by ordinance that
80 historic property may be assessed solely on the basis of
81 character or use. Such character or use assessment shall apply
82 only to the jurisdiction adopting the ordinance. The requirements
83 for eligible properties must be specified by general law.

84 (e) A county may, in the manner prescribed by general law,
85 provide for a reduction in the assessed value of homestead
86 property to the extent of any increase in the assessed value of

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87 that property which results from the construction or
88 reconstruction of the property for the purpose of providing
89 living quarters for one or more natural or adoptive grandparents
90 or parents of the owner of the property or of the owner's spouse
91 if at least one of the grandparents or parents for whom the
92 living quarters are provided is 62 years of age or older. Such a
93 reduction may not exceed the lesser of the following:

94 (1) The increase in assessed value resulting from
95 construction or reconstruction of the property.

96 (2) Twenty percent of the total assessed value of the
97 property as improved.

98 BE IT FURTHER RESOLVED that the following statement be
99 placed on the ballot:

100 CONSTITUTIONAL AMENDMENT

101 ARTICLE VII, SECTION 4

102 ASSESSMENT OF NEWLY ESTABLISHED HOMESTEAD PROPERTY AFTER
103 EMINENT DOMAIN TAKING OF PREVIOUS HOMESTEAD PROPERTY.--Proposing
104 an amendment to the State Constitution to provide for assessing
105 at less than just value property purchased within 2 years after a
106 homestead is taken by eminent domain, if the newly purchased
107 property is established as homestead, to provide that the
108 difference between the new homestead property's just value and
109 its assessed value in the first year may not exceed the
110 difference between the previous homestead property's just value
111 and its assessed value in the year the previous homestead
112 property was taken by eminent domain and to provide that the
113 assessed value of the new homestead property must equal or exceed
114 the assessed value of the previous homestead property.

